

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CIF LICENSING, LLC, d/b/a	)	
GE LICENSING,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 07-170 (JJF)
	)	
AGERE SYSTEMS INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF CIF LICENSING, LLC, d/b/a GE LICENSING'S  
MEMORANDUM IN OPPOSITION TO DEFENDANT AGERE SYSTEM, INC.'S  
MOTION TO COMPEL DISCOVERY**

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Dated: October 29, 2007

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**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

Plaintiff, CIF Licensing, LLC ("GE Licensing"), by and through its undersigned counsel, hereby opposes Defendant Agere Systems Inc.'s ("Agere") Motion to Compel Discovery.

Agere's motion to compel should be denied in its entirety for at least the following reasons: (1) Agere's demands are premature and based entirely on arbitrary parameters in requesting that GE Licensing (i) select the number of claims that would be representative of GE Licensing's infringement contentions, (ii) set forth its final claim construction and (iii) finalize the list of accused products; (2) Agere itself has failed to produce a single page of paper and refused to even identify the products it sells or has sold, rendering GE Licensing unable to respond to Agere's discovery requests; and (3) Agere violated Local Rule 7.1.1 in filing its Motion to Compel by failing to make reasonable good-faith efforts to contact and resolve the matter with GE Licensing.

GE Licensing does not dispute that GE Licensing must in due course proffer a list of accused products, claim construction and infringement contentions and that a limitation on the number of claims asserted likely will be appropriate for purposes of trial. However, the time for all that is not prior to the start of Agere's production. GE Licensing fully intends to supplement its responses to Agere Interrogatory Nos. 1-4 and Document Requests 3-7 and 68 as soon as reasonably possible after Agere provides reasonable discovery on its products.

Accordingly, GE Licensing respectfully requests that this Court deny Agere's motion.

**II. NATURE AND STAGE OF THE PROCEEDING**

GE Licensing commenced this action on March 23, 2007, asserting that several of Agere's modem products infringe four patents. The Court issued a Scheduling Order (D.I. 32)

requiring that all document discovery and contention interrogatories be completed by January 31, 2008, followed by depositions. Fact discovery is to conclude on June 1, 2008 and expert discovery on October 4, 2008.

### III. STATEMENT OF FACTS

#### A. **Agere Has Not Yet Produced Any Documents Or Provided Any Substantive Interrogatory Responses**

**To date, Agere has not yet produced a single document.** Neither party has taken any depositions yet. In response to GE Licensing's first and second sets of interrogatories, Agere objected to GE Licensing's definition of "Agere Product(s)" as overbroad and used this objection as the basis for its refusal to answer GE Licensing's interrogatory nos. 1-13, 16, 17, 19-28, 30, and 40-42 and document request nos. 1-14, 16, 18, 19, 23-25, 30-32, 36, 39, 40, 43 and 44 (Exhibits A-D). **Agere refused to even provide a simple list of its modem products in response to GE Licensing's interrogatory no. 1.** (Exhibit A at 4.) This stonewalling was undertaken despite the fact that GE Licensing's definition of "Products" listed 10 specific products by name.<sup>1</sup> (Exhibit E at 4.)

#### B. **Agere Improperly Filed Its Motion To Compel And Violated Local Rule 7.1.1**

Agere had no legitimate basis for filing its Motion to Compel. On October 4, 2007, Agere sent a letter to GE Licensing regarding GE Licensing's responses to Agere Interrogatory Nos. 1-4 and 12 and requested a date on which document production would begin (without citing any specific document requests). (Exhibit F.) At 1:49 PM on Wednesday, October 10, 2007, Agere sent GE Licensing an email requesting a meet and confer "today or tomorrow." (Exhibit

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<sup>1</sup> Agere also decided to refuse to answer interrogatories requesting that Agere provide contentions on its alleged "slam dunk" defenses – licensing and laches/estoppel. These defenses have no particular connection to products and Agere must have some idea as to the substance of these defenses, so it is apparent that Agere is simply attempting to stall its own discovery obligations while attempting to artificially accelerate GE Licensing's disclosures.

G.) GE Licensing's counsel attempted to contact Agere's counsel five times on October 10, including three emails and two phone calls, and finally proposed a meet and confer at 1:00 PM on Monday, October 15, 2007, just one business day after Agere proposed a meet and confer, because it was the first time GE Licensing's counsel was available after Agere requested the meet and confer. Agere's counsel states that it attempted to reach GE's counsel on October 11. On October 12, Agere filed its Motion to Compel stating in its Opening Brief that "Agere's counsel has, in good faith, attempted to meet and confer with CIF's counsel to avoid resorting to motion practice..." (Agere Br. at 4.) GE Licensing's counsel left another phone message for Agere's counsel on October 12, 2007, requesting that Agere contact counsel on his cell phone at any time that evening or over the weekend of October 13-14, 2007. No such contact was ever made, and Agere never responded to GE Licensing's invitation to hold a meet and confer on October 15, 2007. On October 25, 2007, the parties finally held a meet and confer at the invitation of GE Licensing but were unable to reach a reasonable solution.

Not only was Agere's unilateral attempt to schedule a meet and confer demanding it occur within 24 hours of the request not a "good faith" effort to meet and confer, at no time prior to the filing of its Motion to Compel had Agere given notice to GE Licensing of the specific requests for production it believed were deficient.<sup>2</sup> Thus, Agere's Motion was improperly filed, and should not be considered by this Court. GE Licensing has requested that Agere withdraw its improperly filed Motion, but Agere has refused to do so. Agere has clearly violated Local Rule

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<sup>2</sup> Agere admits in its brief that the October 4th letter concerned only GE Licensing's response to Agere's interrogatories, and never cites to any concern over GE Licensing's response to Agere's Document Requests. (See Agere Br. at 3-4.) Likewise, Agere's Rule 7.1.1 Statement accompanying its Motion to Compel is incorrect. That statement, signed by Agere's counsel, states that counsel for Agere "has made a reasonable effort to reach agreement with counsel for [GE Licensing] on the matters set forth in" its Motion to Compel, but there was absolutely no effort to reach agreement with respect to Agere's document requests.

7.1.1 in failing to make reasonable good-faith efforts to meet and confer with GE Licensing to resolve the purported deficiencies in GE Licensing's responses, so Agere's Motion should be dismissed as premature or denied in its entirety.

#### IV. ARGUMENT

##### A. Agere's Motion Is Premature

GE Licensing agrees that it will likely be appropriate to narrow the number of patent claims that are tried to the jury and provide to Agere claim construction positions and detailed infringement contentions on accused products. The time for such selection and responses, however, is not prior to receipt of any discovery from Agere, but after substantial fact discovery has taken place. To compel GE Licensing to make such selections and responses now is premature. *See Wesley-Jessen Corp. v. Pilkington Visioncare*, 844 F. Supp. 987, 990 (D. Del. 1994) (ordering detailed infringement contentions less than one month prior to the close of discovery and only after document discovery had been ongoing for some time).

This Court was faced with a similar motion in *Bridgestone Sports Co. v. Acushnet Co.*, C.A. No. 05-132 (JJF) (D. Del.). In that case, this Court denied defendant's motion to compel the plaintiff to provide immediate responses to requests for representative claims and detailed infringement contentions, instead deferring the date for such responses until about two months prior to the scheduled *Markman* hearing. (Exhibit H, January 13, 2006 Hearing Transcript at 4:10-15.) In *Bridgestone*, forcing the selection of representative claims and detailed infringement contentions was found to be inappropriate even where the defendant (unlike Agere) had already produced what it claimed constituted detailed technical data on the accused products. (Exhibit H at 28-30.) Here, the parties are in a much earlier stage of fact discovery. There has been no document production and no opportunity to conduct depositions, or engage experts for the purposes of understanding the technology and distilling the case to a point where selecting

representative claims and accused products would be a meaningful exercise. Reducing claims and finalizing the selection of accused products is certainly premature where Agere has refused to even provide a list of its modem products. Further, detailed claim construction will require the involvement of experts, and infringement contentions will require cooperation from Agere, not Agere's present stonewalling on producing the documents that GE Licensing has requested. *See Conopco, Inc. v. Warner-Lambert Co. (In re Conopco, Inc.)*, C.A. No. 99-101 (KSH), 2000 U.S. Dist. LEXIS 1601, at \*8 (D.N.J. Jan. 26, 2000) (finding that "[t]he appropriate time for claim construction may be at a Markman hearing" and not in response to interrogatories prior to completion of discovery).

As support for its position that claim construction should be set forth prior to the start of discovery, Agere cites to a case from the District Court of the District of Washington, *Carver v. Velodyne Acoustics, Inc.*, 202 F.R.D. 273 (W. D. Wash. 2001). *Carver* has nothing to do with pre-discovery claim construction. The court in *Carver* did not order the plaintiff to produce claim construction contentions until: (i) the case had been on file for over a year; and (ii) discovery had been ongoing long enough for the plaintiff to supplement interrogatories at least twice. *Id.* at 274 Even more confusing is Agere's reliance on *Ecrix Corp. v. Exabyte Corp.*, 95 F. Supp. 2d 1155 (D. Colo. 2000). Agere cites footnote no. 2, which reads, in its entirety:

Claim charts are industry-standard documents for infringement analysis in which the elements of a patent claim are set forth in one column, and corresponding elements of the accused device are juxtaposed in the next column.

*Id.* at 1157 n.2. Further, the Court in *Ecrix* ordered the plaintiff to produce documents related to claim construction after Rule 30(b)(6) depositions had been taken on technical issues and only because the court found the information relevant to "Ecrix's claims of patent misuses and



antitrust violations.” *Id.* at 1158. Both *Carver* and *Ecrix* fully support GE Licensing’s position that Agere’s motion is premature.

Notwithstanding the fact that GE Licensing has identified in its discovery requests ten specific products by name (and 11 products in GE Licensing’s response to Agere’s Interrogatory No. 1), Agere has produced no documents on those or any other documents to GE Licensing.<sup>3</sup> Agere is certainly in possession of a listing of its modem products and should not benefit from withholding such clearly discoverable information. In effect, Agere is attempting to use its motion as a way to avoid discovery by having GE Licensing prematurely reduce the asserted claims, as opposed to deferring claim selection to an appropriate time. *See Fenster Family Patent Holdings, Inc. v. Siemens Medical Solutions USA*, C.A. No. 04-038-JJF, 2005 WL 2304190 (D. Del. Sept. 20, 2005) (Court did not require the plaintiff to limit the claims until well after the initial fact discovery period concluded).

**B. Agere Should Provide Discovery Before GE Licensing Is Required To Narrow Its Case.**

Agere’s motion appears to be nothing more than an attempt to scale back providing its own discovery in this case. (*See* Agere Br. at 3 and 4.). Agere argues that if the number of asserted claims is limited now, the amount of document discovery will be reduced. (*Id.*) However, whether GE Licensing is asserting all claims or one claim from each of its patents, Agere will still be required to produce essentially the same documents in response to GE Licensing’s document requests. There is simply no legitimate correlation between the number of

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<sup>3</sup> Agere has also failed to produce a single document related to its alleged “slam dunk” licensing and laches/estoppel defenses. Moreover, in its brief, Agere acknowledges that GE Licensing has specifically identified “11 accused products/product lines so far,” yet fails to provide the Court a reasonable explanation for why it has not yet produced any documents for these products. (Agere Br. at 6.)

claims being asserted or their construction and the product-related documents that Agere must produce at this stage. As a result, limiting the number of claims or requiring early claim construction will not result in a reduction in the amount of discovery. The only clear path to clarifying the extent of Agere's infringement is for Agere itself to engage in prompt and responsive production of product-related technical information. To date, Agere has rejected this obvious solution.

Further, it is GE Licensing's position that Agere has engaged in willful infringement of the asserted patents for a period of years. Agere's principal problem appears to be that production regarding all of its willfully infringing products would be burdensome and, therefore, the infringement should be excused. GE Licensing believes a more appropriate solution, without prejudicing either party, is to (i) provide initial infringement contentions after receiving discovery on Agere's products per GE Licensing's outstanding discovery requests; (ii) provide supplemental infringement contentions after the close of discovery; and (iii) select claims and claim constructions later in the fact discovery period, but reasonably prior to the *Markman* hearing. This approach would allow additional fact discovery necessary to determine which claims to assert for trial and would occur sufficiently before the parties engage in the claim construction process and before experts begin drafting their reports.

V. CONCLUSION

For the above reasons, GE Licensing respectfully requests that this Court deny Agere's Motion to Compel in its entirety.


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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on October 29, 2007, the within document was filed with the Clerk of the Court using CM/ECF; that the document was served on the following party as indicated; and that the document is available for viewing and downloading from CM/ECF.

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# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CIF LICENSING, LLC, d/b/a	)	
GE LICENSING,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-170-JJF
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
AGERE SYSTEMS INC.,	)	
	)	
Defendant.	)	

**DEFENDANT AGERE SYSTEMS INC.'S ANSWERS TO  
PLAINTIFF CIF LICENSING, LLC'S  
FIRST SET OF INTERROGATORIES (NOS. 1-30)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Agere Systems Inc. ("Defendant") responds to CIF Licensing, LLC, d/b/a GE Licensing's ("Plaintiff") First Set of Interrogatories (Nos. 1-30) ("Plaintiff's Interrogatories"), stating as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. The following responses are made solely for the purpose of this action and are subject to all objections to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds which would or could require or permit the exclusion of any statement or response from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.
2. Subject to the specific and general objections listed herein, Defendant will answer each interrogatory with responsive, non-privileged information within the current actual knowledge of Defendant or through cross-references to produced documents according to F.R.C.P. 33(d).
3. Defendant will answer interrogatories calling for confidential information or trade secrets

only after a Protective Order is entered by the Court in this action or subject to Local Rule 26.2.

4. The following answers are based on information known to Defendant as of the date of service. Discovery is continuing in this case, and accordingly these responses are subject to change. Defendant reserves the right to change, amend, or supplement the answers herein as permitted by the applicable rules. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 33 of the Federal Rules of Civil Procedure, but are in no way deemed to be to the prejudice of Defendant in relation to further discovery, research, and analysis.

5. Defendant objects to Plaintiff's Interrogatories to the extent they purport to impose on Defendant obligations that are inconsistent with the Federal Rules of Civil Procedure or local rules.

6. Defendant objects generally to Plaintiff's Interrogatories to the extent they seek documents or information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Such documents or information shall not be produced in response to the Interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege or protection by the work product doctrine that may attach thereto.

7. Defendant objects to Plaintiff's definition of "Agere Product(s)." The broad scope of term "Agere Product(s)" renders many of Plaintiff's interrogatories overly broad, unduly burdensome, and/or irrelevant. This defect is exacerbated by Plaintiff's failure, in its pleading and its answers to Defendant's interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to

specific products or to any ITU standards purportedly covered by the patents in suit. Effectively, Plaintiff seeks discovery on every modem ever made used or sold by Defendant or its predecessors in interest. Clearly, such discovery is overbroad and a meet and confer between counsel is necessary to arrive at a more reasonable scope for discovery in this case.

8. Defendant objects to Plaintiff's interrogatories that seek Defendant's contentions or positions related to the alleged infringement (including willful infringement), validity and/or enforceability of the patents in suit. As noted above, Defendant has failed, in both its pleading and its answers to Defendant's interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit.

Accordingly, Defendant cannot provide answers to any interrogatories that call for such contentions until Plaintiff has identified the claims and products at issue in this litigation.

9. Defendant objects to any interrogatory seeking information related to sales, marketing, products, accounting, finances, or manufacturing prior to March 23, 2001 because this information is outside the time period for the applicable statute of limitations and thus is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.



**ANSWERS TO INTERROGATORIES**

**INTERROGATORY NO. 1**

Identify each and every Agere Product ever manufactured, used, distributed, sold, or offered for sale by or on behalf of Agere by model name, trade name, marketing name, internal name, type, description, design number, catalog number, and all other names and/or designations used by Agere, and the date it was first sold, offered for sale, or marketed.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 2**

Identify each entity that is or has been involved in any way in the design, development, manufacturing, assembly, marketing, sales and/or distribution of each Agere Product identified in response to Interrogatory No. 1, including the name and location of such entity, its relationship with Agere, identification of any licenses or other agreements with such entity, as well as a narrative description of each such involvement (including the location of any such involvement) of each such entity.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Plaintiff's request for "a narrative description of each such involvement" because the wide range of information potentially responsive to this request is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 3**

State precisely when Agere commenced any activities, projects or programs, whether formal or informal, directed to the design and development of each Agere Product identified in response to Interrogatory No. 1, including a description of the activities, projects and/or programs (including their objectives and results), and, for each such activity, identify the person(s) knowledgeable about such activities, the person(s) involved in such activities, and state precisely where such activities were undertaken.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the

applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to Plaintiff's request for a "description of the activities, projects and/or programs" because the wide range of information potentially responsive to this request is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

#### **INTERROGATORY NO. 4**

Identify the three persons most knowledgeable about the structure, design, development, function, and operation of each Agere Product identified in response to Interrogatory No. 1.

#### **ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

#### **INTERROGATORY NO. 5**

Identify the three persons most knowledgeable about the manufacture and/or assembly of each Agere Product identified in response to Interrogatory No. 1.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 6**

Identify the three persons most knowledgeable about the marketing, sale and distribution of each Agere Product identified in response to Interrogatory No. 1.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 7**

Describe any activities of Agere with respect to the design, development, fabrication, manufacture, assembly and/or testing of Agere Products, components thereof, or products containing same.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory because the wide range of potentially responsive information is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 8**

Describe any activities of Agere with respect to the marketing, sales and/or distribution of Agere Products, components thereof, or products containing same.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible

evidence. Defendant further objects to this interrogatory because the wide range of potentially responsive information is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 9**

For each Agere Product, component thereof, or product containing same identified in Your answer to Interrogatory No. 1, identify the quantity produced, total sales volume, unit prices, purchaser, and the revenues that Agere has received, expects to receive and/or has projected to receive from the sale, lease, license, sublicense or use of any Agere Product, component thereof, or product containing same.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory because the wide range of potentially responsive information is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 10**

Describe any testing or analysis done by Agere or any other entity to determine whether, or that may have revealed whether, any Agere Product identified in response to Interrogatory No. 1 infringes any of the GE Patents, and identify all persons who performed, directed, or observed such tests and/or analyses, and provide the dates of any such tests and/or analyses, and identify any documents, such as reports, showing their results.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, grossly overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this interrogatory because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 11**

Describe any plans or attempts by Agere to redesign any Agere Product identified in response to Interrogatory No. 1, and identify the person(s) knowledgeable of and the person(s) involved in any such plans or attempts, and identify all documents that refer to or relate to any such plans or attempts.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this interrogatory because the wide range of potentially responsive information is more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 12**

State whether Agere contends that it does not infringe, either literally or under the doctrine of equivalents, any claim of the GE Patents and, if so, for each such claim identify all legal and factual bases for each such contention, and how the identified documents, things, facts



or knowledge support this assertion, and identify all people with knowledge thereof and all documents that support or refute Your contention.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 13**

If Agere contends that it has not willfully infringed the GE Patents, describe each fact that supports or refutes that contention and, with respect to each such fact, identify all people with knowledge thereof, and each document relating to that fact, including any opinions of counsel upon which Agere may rely.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 14**

Describe any statements, oral or written, by Agere concerning or relating to any GE Patent, and identify all documents containing or evidencing such statements.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant, and is not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Defendant further objects to Plaintiff's interrogatory because the wide range of information potentially responsive to this interrogatory is

more properly sought through less burdensome forms of discovery, including a request for documents and/or a Fed. R. Civ. Pro. 30(b)(6) deposition. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent any exist, that are responsive to this interrogatory.

**INTERROGATORY NO. 15**

Separately and with respect to each of the GE Patents, describe the circumstances under which Agere first became aware of the patent and identify each past and present director, officer, employee, representative or agent of Agere, including Agere's in-house and outside counsel, involved in such circumstances.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent any exist, that are responsive to this interrogatory.

Defendant further answers that it first became aware of the patents in suit on or around November 2, 2004, based on communications to Defendant from Plaintiff. Defendant's

investigation into the circumstances under which Agere first became aware of the patents in suit is ongoing, and Defendant reserves the right to supplement this answer as more information becomes available.

**INTERROGATORY NO. 16**

State whether Agere has ever taken any position regarding the validity, enforceability, or infringement by Agere of any of the GE Patents and, if so, describe (a) the position and the circumstances in which that position was taken, (b) the specific bases for each such position, (c) the identity of all documents or prior art relating to those bases, and (d) how those documents and that prior art support such position.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 17**

State whether Agere has ever been informed or concluded that any of the GE Patents is invalid, unenforceable, or not infringed by Agere, and, if so, identify the person(s) and/or entity that so informed Agere, or so concluded, the information communicated to Agere and the circumstances under which Agere was so informed, or so concluded, identify all documents or prior art relating to what Agere was informed, or so concluded, and explain the relationship of those documents and such prior art to the information Agere was provided or considered.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 18**

Identify all opinions, advice, analyses or communications, whether written or oral, relating to the enforceability, validity or infringement of any of the GE Patents, and identify the

person(s) who provided the opinion, advice, analysis or communication, the person(s) to whom the opinion, advice, analysis or communication was provided, the date such opinion, advice, analysis or communication was provided and describe the substance of the opinion, advice, analysis or communication which was provided and identify all documents relating to the opinion, advice, analysis or communication provided.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Further, Defendant is not required at this stage of the litigation to elect whether it will rely on any opinion of counsel in response to the allegation of willful infringement.

**INTERROGATORY NO. 19**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 101, and, if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 101 upon which this assertion is based and the documents, things, facts or knowledge upon which each such assertion is based, and explain in detail how the identified documents, things, facts or knowledge support this assertion.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 20**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 102, and, if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 102 upon which this assertion is based and the documents, things, facts or knowledge upon which each such assertion is based, and explain in detail how the identified documents, things, facts or knowledge support this assertion.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this

request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 21**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to 35 U.S.C. § 103, and if so, with respect to each such claim identify all documents, things, facts or knowledge upon which Agere bases this assertion and explain in detail how the identified documents, things, facts or knowledge support Agere's assertion, including identification of how the identified documents, things, facts or knowledge disclose specific claim elements, and identify what suggestion, motivation, or knowledge in the relevant art supports Agere's application of 35 U.S.C. § 103.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.



Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 22**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 112, and if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 112 of the Patent Act upon which this assertion is based and the documents, things, facts or knowledge upon which Agere bases this assertion, and explain in detail how 35 U.S.C. § 112 is not satisfied by the claim, and how the identified documents, things, facts or knowledge support this assertion.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of

Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 23**

State whether Agere contends that it does not infringe, either literally or under the doctrine of equivalents, any claim of the GE Patents and, if so, for each such claim identify all legal and factual bases for each such contention, and how the identified documents, things, facts or knowledge support this assertion.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 24**

Identify in detail all facts that support Agere's second affirmative defense of "Legal Justification" and identify any documents that Agere claims support that defense.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

Subject to the foregoing objections, Defendant answers that it does not infringe the patents in suit because, among other reasons, it is licensed to practice the inventions claimed therein pursuant to the Patent Cross-License Agreement dated January 30, 2001 between Motorola, Inc. and AltoCom, Inc. Defendant incorporates herein by reference its response to Plaintiff's Interrogatory No. 31.

**INTERROGATORY NO. 25**

Identify in detail all facts that support Agere's fourth affirmative defense of "Laches/Waiver/Estoppel" and identify any documents that Agere claims support that defense.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 26**

Identify in detail all facts that support Agere's sixth affirmative defense of "Prosecution History Estoppel" and identify any documents that Agere claims support that defense.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this

request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 27**

Identify in detail all facts that support Agere's seventh affirmative defense and ninth counterclaim of "Unenforceability" and identify any documents that Agere claims support that defense and counterclaim.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of

Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 28**

Identify all persons who Agere expects will offer testimony on its behalf at the trial in this case, including, without limitation, any expert witness and state the substance of the facts or opinions to which each person is expected to testify.

**ANSWER:**

Defendant objects to this request as premature. Defendant will identify trial and expert witnesses, and the substance of their testimony, as required by the Federal Rules of Civil Procedure, the Local Rules, and the Scheduling Order in this matter.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in suit allegedly are infringed.

**INTERROGATORY NO. 29**

Describe all Agere's policies and practices with respect to the filing, storage, retention and destruction of documents from August 2000 to the present, and person(s) most knowledgeable regarding each policy and to the extent it is followed.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent any exist, that are responsive to this interrogatory.

**INTERROGATORY NO. 30**

Identify each legal action, including but not limited to any action before the U.S. Patent and Trademark Office, the International Trade Commission, and any federal, state or foreign court, concerning any of the Agere Products. For each such action, identify the case number, the court and presiding judge, the parties to the action, and all pleadings and other documents filed in the action and all depositions conducted, including the name of the deponent and date of the deposition.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is vague, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Furthermore, to the extent the information is not

privileged, much of the requested information is readily available through more convenient, publicly-accessible sources such as PACER.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Dated: September 17, 2007

TOWNSEND AND TOWNSEND AND CREW, LLP



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**ATTORNEYS FOR AGERE SYSTEMS INC.**



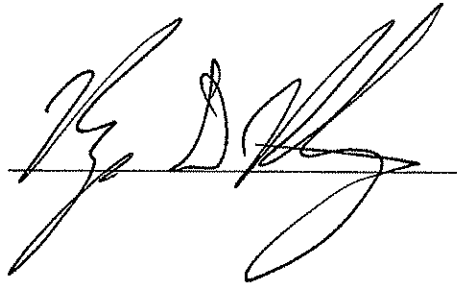
CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September 2007, a true and correct copy of the foregoing **DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO PLAINTIFF CIF LICENSING, LLC'S FIRST SET OF INTERROGATORIES (NOS. 1-30)** was served by placing the same in the United States mail, postage prepaid and addressed to the following:

Richard L. Horowitz  
Philip A. Rovner  
David E. Moore  
Potter Anderson & Corroon LLP  
Hercules Plaza, 6th Floor  
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Tel: 202-756-8327  
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A handwritten signature in black ink, appearing to read "B. E. Ferguson", written over a horizontal line.

61131436 v2

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CIF LICENSING, LLC, d/b/a	)	
GE LICENSING,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-170-JJF
v.	)	
	)	
AGERE SYSTEMS INC.,	)	
	)	
Defendant.	)	

**DEFENDANT AGERE SYSTEMS INC.'S ANSWERS TO  
PLAINTIFF CIF LICENSING, LLC'S  
SECOND SET OF INTERROGATORIES (NOS. 31-42)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Agere Systems Inc. ("Defendant") responds to CIF Licensing, LLC, d/b/a GE Licensing's ("Plaintiff") Second Set of Interrogatories (Nos. 31-42) ("Plaintiff's Interrogatories"), stating as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. The following responses are made solely for the purpose of this action and are subject to all objections to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds which would or could require or permit the exclusion of any statement or response from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.
2. Subject to the specific and general objections listed herein, Defendant will answer each interrogatory with responsive, non-privileged information within the current actual knowledge of Defendant or through cross-references to produced documents according to F.R.Civ.P. 33(d).

3. Defendant will answer interrogatories calling for confidential information or trade secrets only after a Protective Order is entered by the Court in this action or subject to Local Rule 26.2.

4. The following answers are based on information known to Defendant as of the date of service. Discovery is continuing in this case, and accordingly these responses are subject to change. Defendant reserves the right to change, amend, or supplement the answers herein as permitted by the applicable rules. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 33 of the Federal Rules of Civil Procedure, but are in no way deemed to be to the prejudice of Defendant in relation to further discovery, research, and analysis.

5. Defendant objects to Plaintiff's Interrogatories to the extent they purport to impose on Defendant obligations that are inconsistent with the Federal Rules of Civil Procedure or local rules.

6. Defendant objects generally to Plaintiff's Interrogatories to the extent they seek documents or information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Such documents or information shall not be produced in response to the Interrogatories, and any inadvertent production thereof shall not be deemed a waiver of any privilege or protection by the work product doctrine that may attach thereto.

7. Defendant objects to Plaintiff's definition of "Agere Product(s)." The broad scope of term "Agere Product(s)" renders many of Plaintiff's interrogatories overly broad, unduly burdensome, and/or irrelevant. This defect is exacerbated by Plaintiff's failure, in its pleading and its answers to Defendant's Interrogatories, to identify any asserted claims of the patents in

suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit. Effectively, Plaintiff seeks discovery on every modem ever made used or sold by Defendant or its predecessors in interest. Clearly, such discovery is overbroad and a meet and confer between counsel is necessary to arrive at a more reasonable scope for discovery in this case.

8. Defendant objects to Plaintiff's interrogatories that seek Defendant's contentions or positions related to the alleged infringement (including willful infringement), validity and/or enforceability of the patents in suit. As noted above, Defendant has failed, in both its pleading and its answers to Defendant's interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit.

Accordingly, Defendant cannot provide answers to any interrogatories that call for such contentions until Plaintiff has identified the claims and products at issue in this litigation.

9. Defendant objects to any interrogatory seeking information related to sales, marketing, products, accounting, finances, or manufacturing prior to March 23, 2001 because this information is outside the time period for the applicable statute of limitations and thus is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

### **ANSWERS TO INTERROGATORIES**

#### **INTERROGATORY NO. 31**

Identify in detail all facts and identify any documents that refer, relate to or support Agere's statement made in the July 30, 2007 proposed Scheduling Order and statements made by

Agere's counsel during the Scheduling Hearing of August 1, 2007 that Agere purports to have a "license defense."

**ANSWER:**

Without waiving its General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory.

Defendant further responds as follows: Defendant is the successor in interest to Lucent Technologies, Inc., and as such is licensed to practice the inventions claimed in the patents in suit under the one or more following agreements: (1) Software Modem License Agreement between Lucent Technologies, Inc. and AltoCom, Inc. dated May 2, 1999; (2) Patent Cross License Agreement between Motorola, Inc. and AltoCom, Inc. dated January 30, 2001; (3) Patent License Agreement among Agere Systems Guardian Corporation, Broadcom Corporation, and AltoCom Inc. dated July 1, 2001; and (4) Patent Settlement and Cross-License Agreement between Agere Systems, Inc. and Broadcom Corporation dated September 30, 2004. On information and belief, additional potentially responsive information is in the possession of third parties, including Motorola, Inc., Lucent Technologies, Inc., AltoCom Inc, and Broadcom Corporation, on whom subpoenas have been served pursuant to Fed. R. Civ. P. 45.

**INTERROGATORY NO. 32**

Describe and identify any license or other authorization that Agere purportedly has or had for any Agere Product (or for the design, manufacture or sale thereof) to practice any of the patents in suit, whether such license or authorization purportedly comes from or through GE

Licensing, Motorola, Inc., Lucent Technologies Corp., Altocom, Inc., Broadcom, Inc., or any other entity, including the identification of the licensing entity, the product, process or property licensed (including without limitation any patents).

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, overly broad, unduly burdensome, seeks information that is not relevant, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory.

Defendant further responds as follows: Defendant is the successor in interest to Lucent Technologies, Inc., and as such is licensed to practice the inventions claimed in the patents in suit under the one or more following agreements: (1) Software Modem License Agreement between Lucent Technologies, Inc. and AltoCom, Inc. dated May 2, 1999; (2) Patent Cross License Agreement between Motorola, Inc. and AltoCom, Inc. dated January 30, 2001; (3) Patent License Agreement among Agere Systems Guardian Corporation, Broadcom Corporation, and AltoCom Inc. dated July 1, 2001; and (4) Patent Settlement and Cross-License Agreement between Agere Systems, Inc. and Broadcom Corporation dated September 30, 2004. On information and belief, additional potentially responsive information is in the possession of third parties, including Motorola, Inc., Lucent Technologies, Inc., AltoCom Inc, and Broadcom Corporation, on whom subpoenas have been served pursuant to Fed. R. Civ. P. 45.

**INTERROGATORY NO. 33**

State whether the design, manufacturing and sale of any Agere Product, component thereof, or product containing same is licensed or otherwise authorized by GE Licensing or Motorola, Inc., and, if so, identify the Agere Product, component thereof, license or other source of such authorization and any and all facts and documents that support your contention.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, overly broad, unduly burdensome, seeks information that is not relevant, and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory. Defendant further responds as follows: Defendant is the successor in interest to Lucent Technologies, Inc., and as such is licensed to practice the inventions claimed in the patents in suit under the one or more following agreements: (1) Software Modem License Agreement between Lucent Technologies, Inc. and AltoCom, Inc. dated May 2, 1999; (2) Patent Cross License Agreement between Motorola, Inc. and AltoCom, Inc. dated January 30, 2001; (3) Patent License Agreement among Agere Systems Guardian Corporation, Broadcom Corporation, and AltoCom Inc. dated July 1, 2001; and (4) Patent Settlement and Cross-License Agreement between Agere Systems, Inc. and Broadcom Corporation dated September 30, 2004. On information and belief, additional potentially responsive information is in the possession of third parties, including Motorola, Inc., Lucent Technologies, Inc., AltoCom Inc, and Broadcom Corporation, on whom subpoenas have been served pursuant to Fed. R. Civ. P. 45.



**INTERROGATORY NO. 34**

Describe in detail and identify any documents relating to the existence of a relationship between Agere, Lucent Technologies Inc., Atlas Acquisition Corp., LSI Logic Corp., LSI Corp., AltoCom, Inc. and Broadcom Corp. at any time, including without limitation any correspondence, licensing or other communications between any such entities.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Agere is a successor to Lucent Technologies, Inc. ("Lucent"), such that information about the "relationship" between the entities could be massive. For example, such information could be construed to encompass all documents and information in possession of Agere previously held by Lucent. In addition to being of overwhelming volume, such information would be irrelevant. Similar problems exist with respect to other "relationships" among the entities identified above.

Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory as it relates to the corporate relationship between entities and specific transaction documents, such as licenses or contracts, if any.

**INTERROGATORY NO. 35**

Describe in detail and identify any documents relating to, on a product-by-product basis, any intellectual property, know-how, technology, source code, components, plans, knowledge or other information, products or services received from AltoCom, Inc. or Broadcom Corp. that is incorporated into, used in or with or otherwise related to an Agere Product or its development or manufacture.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**INTERROGATORY NO. 36**

Describe in detail and identify any documents relating to the formation of Agere, the transfer of assets from Lucent Technologies Inc. to Agere and the merger of Agere and Atlas Acquisition Corp., LSI Logic Corp. and/or LSI Corp., including, without limitation, the effective date of such agreements.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably calculated

to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory.

**INTERROGATORY NO. 37**

Describe in detail the assets, licenses and liabilities that were purported to be transferred to or from Lucent Technologies Inc. from or to Agere and the actual dates on which each such transfer occurred.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory.

**INTERROGATORY NO. 38**

Describe in detail and identify any documents relating to communications between Agere and Motorola, Inc., Lucent Technologies Inc., Broadcom Corp. or AltoCom, Inc.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory as it relates to Motorola, Inc., Broadcom Corp. and AltoCom, Inc. Agere was part of Lucent Technologies Inc. and communications "between" these entities could encompass large amounts of irrelevant information. Agere is prepared to meet and confer with respect to discovery of such communication.

**INTERROGATORY NO. 39**

State Agere's position on whether or not Agere is a "customer" within the meaning of Section 4.2 of the January 30, 2001 agreement between AltoCom, Inc. and Motorola, Inc. and identify any facts and documents that support Agere's position.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, and unduly burdensome, and seeks information that is not relevant and not reasonably

calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, pursuant to Fed. R. Civ. Pro. 33(d), Defendant will produce relevant and non-privileged documents, to the extent that any exist, that are responsive to this interrogatory.

Defendant further responds that it is the successor in interest to Lucent Technologies, Inc., and as such is a "customer" within the meaning of Section 4.2 of January 30, 2001 agreement between AltoCom, Inc. and Motorola, Inc. On information and belief, additional potentially responsive information is in the possession of third parties, including Motorola, Inc., Lucent Technologies, Inc., AltoCom Inc, and Broadcom Corporation, on whom subpoenas have been served pursuant to Fed. R. Civ. P. 45.

#### **INTERROGATORY NO. 40**

For each Agere Product, state whether such product meets any standard or recommendation promulgated by the ITU Telecommunication Standardization Sector (ITU-T) or any other standards organization, including without limitation the V.17, V.29, V.32bis, V.32 terbo, V.FC, V.Fast, V.Fast Class, V.34, H.324, V.34Q, V.34R, V.34bis, V.34 plus, V.34 extended rate, X2, K56 Flex, V.90 and V.92 standards and identify specifically which of such standards or recommendations each Agere Product meets.

#### **ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "each Agere Product."

**INTERROGATORY NO. 41**

Identify each and every dial-up device, software, combination of devices and/or software, or component of any of the foregoing, having modulation and/or demodulation capabilities which converts signals to a form suitable for transmission substantially within the voice-band frequency spectrum over telephone lines and/or which receives such transmitted signals (including, without limitation, devices, software, combination of devices and/or software, or components of any of the foregoing, the primary purpose of which is to practice some or all of the standards or recommendations V.32bis, V.32 terbo, V.FC, V.Fast, V.Fast Class, V.34, H.324, V.34Q, V.34R, V.34 extended rate, V.34bis, V.34 plus, X2, K56 Flex, V.90 and V.92) (for the purposes of Interrogatory No. 42 only, a "Modem") ever manufactured, used, distributed, sold, or offered for sale by or on behalf of Agere by model name, trade name, marketing name, internal name, type, description, design number, catalog number, and all other names and/or designations used by Agere, and the date it was first sold, offered for sale, imported into the United States or marketed.

**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the terms "Modem" and "each and every dial-up device, software, combination of devices and/or software, or component of any of the foregoing."

**INTERROGATORY NO. 42**

Identify each and every standalone software Modem (as defined in Interrogatory No. 41) ever manufactured, used, distributed, sold, or offered for sale by or on behalf of Agere by model name, trade name, marketing name, internal name, type, description, design number, catalog number, and all other names and/or designations used by Agere, and the date it was first sold, offered for sale, imported into the United States or marketed.

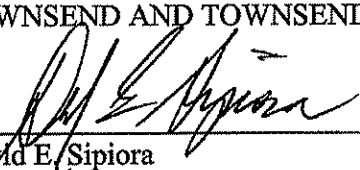
**ANSWER:**

Defendant objects to this interrogatory on the grounds that it is compound, vague, overly broad, unduly burdensome, seeks information that is not relevant and/or that occurred before the applicable limitations period; and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "standalone software Modem."

Dated: September 17, 2007

TOWNSEND AND TOWNSEND AND CREW, LLP



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**ATTORNEYS FOR AGERE SYSTEMS, INC.**




CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September 2007, a true and correct copy of the foregoing **DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO PLAINTIFF CIF LICENSING, LLC'S SECOND SET OF REQUESTS FOR INTERROGATORIES (NOS. 31-42)** was served by placing the same in the United States mail, postage prepaid and addressed to the following:

Richard L. Horowitz  
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Tel: 202-756-8327  
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A handwritten signature in black ink, appearing to read "D. Sean Trainor", is written over a horizontal line.

61131458 v2

# EXHIBIT C

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CIF LICENSING, LLC, d/b/a	)	
GE LICENSING,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-170-JJF
v.	)	
	)	
AGERE SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO PLAINTIFF CIF  
LICENSING, LLC'S FIRST SET OF REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND TANGIBLE THINGS (NOS. 1-35)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Agere Systems Inc. ("Defendant") responds to CIF Licensing, LLC's ("Plaintiff") First Set of Requests for Production of Documents and Tangible Things (Nos. 1-35) ("Plaintiff's Requests"), stating as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. The following responses are made solely for the purpose of this action and are subject to all objections to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds which would or could require or permit the exclusion of any statement or document or part thereof from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.
2. Subject to the specific and general objections listed herein, Defendant will respond to each document request with any existing responsive, non-privileged documents currently in its

possession, custody, or control. By stating in these responses that it will produce documents, Defendant does not represent that any document actually exists, but rather, that it has and will make a diligent search and reasonable inquiry to ascertain whether documents responsive to the requests do, in fact, exist.

3. Defendant will produce its confidential documents and information or documents containing trade secret information only after a Protective Order is entered by the Court in this action or subject to Local Rule 26.2.

4. The following responses are based on information and documents available to Defendant as of the date of service. Discovery is continuing in this case, and accordingly the responses are subject to change. Defendant reserves the right to change, amend, or supplement the responses herein as permitted by the applicable rules. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 34 of the Federal Rules of Civil Procedure, but are in no way deemed to be to the prejudice of Defendant in relation to further discovery, research, and analysis.

5. Defendant objects to Plaintiff's requests to the extent they purport to impose on Defendant obligations that are inconsistent with the Federal Rules of Civil Procedure or local rules.

6. Defendant objects generally to Plaintiff's Requests to the extent they seek documents or information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Such documents or information shall not be produced in response to the Requests, and any inadvertent production thereof shall not be deemed a waiver of any privilege or protection by the work product doctrine that may attach thereto.

7. Defendant objects to Plaintiff's definition of "Agere Product(s)." The broad scope of term "Agere Product(s)" renders many of Plaintiff's document requests overly broad, unduly burdensome, and/or irrelevant. This defect is exacerbated by Plaintiff's failure, in its pleading and its answers to Defendant's Interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit. Effectively, Plaintiff seeks discovery on every modem ever made used or sold by Defendant or its predecessors in interest. Defendant cannot respond to such discovery requests until Plaintiff provides a more reasonable scope for discovery in this case.

8. Defendant objects to Plaintiff's Requests that seek documents concerning Defendant's contentions or positions related to the alleged infringement (including willful infringement), validity and/or enforceability of the patents in suit. As noted above, Defendant has failed, in both its pleading and its answers to Defendant's interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit. Accordingly, Defendant cannot provide responsive documents to any Requests that call for such contentions until Plaintiff has identified the claims and products at issue in this litigation.

9. Defendant objects to any request for production of documents related to sales, marketing, products, accounting, financial information, or manufacturing to the extent that responsive documents are dated prior to March 23, 2001 because these documents are outside the time period for the applicable statute of limitations and thus is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1**

All documents, the identification of which was requested in Plaintiff CIF Licensing LLC's First Set of Interrogatories to Defendant Agere Systems Inc.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 2**

Three (3) samples of each Agere Product identified in response to Interrogatory No. 1 and three (3) samples of any evaluation or demonstration board relating to the Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

**REQUEST FOR PRODUCTION NO. 3**

All transistor-level schematics for each Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 4**

All documents, including without limitation e-mails and slides, concerning the design, manufacture, assembly, or testing (including all testing conducted to incorporate information and graphs within the product datasheets) of any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."



Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 5**

All source code related to or used with any Agere Product identified in response to Interrogatory No. 1

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 6**

All documents, including without limitation e-mails and slides, concerning design specifications (including initial objective specifications) for each Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 7**

Documents, including without limitation e-mails and slides, sufficient to identify any assembly arrangement, distributor, customer, or manufacturer for each Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 8**

Documents, including without limitation e-mails and slides, sufficient to identify the location and name of each design, fabrication, assembly, or testing facility for each Agere Product identified in Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 9**

Documents, including without limitation e-mails and slides, sufficient to identify companies and individuals not employed by Agere, including but not limited to consultants and contractors, that have designed, manufactured, assembled, or tested any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 10**

All instruction manuals, datasheets, brochures, pamphlets, promotional material, and advertisements concerning any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 11**

Documents, including without limitation e-mails and slides, sufficient to identify on a quarterly basis the quantity produced, total sales volume, and the revenues that Agere has received, expects to receive and/or has projected to receive from the sale, lease, license, sublicense or use of any Agere Product identified in response to Interrogatory No. 1 and the identification of all entities that purchased, licensed, sublicensed or leased such Agere Product and the volume and dollar amount purchased, licensed, sublicensed or leased by that entity.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 12**

All reports regularly supplied to Agere's management outlining some or all of the information requested in the preceding Request.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 13**

All project meeting minutes concerning the design, development, or testing of any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

#### **REQUEST FOR PRODUCTION NO. 14**

All progress reports concerning the design, development, or testing of any Agere Product identified in response to Interrogatory No. 1.

#### **RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."



Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 15**

All documents, including without limitation e-mails and slides, concerning any testing or analysis done by Agere or anyone else to determine whether, or that may have revealed whether, any Agere Product infringes any of the GE Patents.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce responsive, relevant, and non-privileged documents in its possession.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 16**

All documents, including without limitation e-mails and slides, relating to any plan or attempt by Agere to redesign any Agere Product.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 17**

All documents, including without limitation e-mails and slides, relating to or discussing any attempt to avoid infringement of any of the GE Patents.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 18**

All documents, including without limitation e-mails and slides, relating to any contention by Agere that it does not infringe, either literally or under the doctrine of equivalents, any claim of the GE Patents.

**RESPONSE:**

Defendant objects to this request because it calls for production of documents regarding questions of law. Defendant objects to this request as premature because it calls for production of documents regarding Defendant's contentions or legal positions in this litigation before Defendant has obtained information through discovery, including from Plaintiff, that is necessary for Defendant to respond. Additionally, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 19**

All documents, including, but not limited to, e-mails, presentation materials, slide presentations, press releases, customer success stories, reference account testimonials, analyst reports, notes, and handouts used in the introduction and/or promotion of any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 20**

All documents, including without limitation e-mails and slides, referring or relating to the matters alleged in GE Licensing's Complaint and Agere's Answer and Counterclaims.

**RESPONSE:**

Defendant objects to this request because it calls for production of documents regarding questions of law. Defendant objects to this request as premature because it calls for production of documents regarding Defendant's contentions or legal positions in this litigation before Defendant has obtained information through discovery, including from Plaintiff, that is necessary for Defendant to respond. Additionally, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 21**

All documents, including without limitation e-mails and slides, relied upon or consulted by Agere in preparing Agere's Answer and Counterclaims or answers to interrogatories served by GE Licensing to Agere.

**RESPONSE:**

Defendant objects to this request because it calls for production of documents regarding questions of law. Defendant objects to this request as premature because it calls for production of documents regarding Defendant's contentions or legal positions in this litigation before Defendant has obtained information through discovery, including from Plaintiff, that is necessary for Defendant to respond. Additionally, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 22**

Plaintiff's First Set of Requests for Production of Documents and Things did not contain a Document Request No. 22.

**REQUEST FOR PRODUCTION NO. 23**

All documents, including without limitation e-mails and slides, sufficient to identify all customers, distributors, suppliers, resellers, seller's agents or independent sales representatives, and manufacturers of each Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to

the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 24**

All documents, including without limitation e-mails and slides, referring or relating to Agere's market share for each Agere Product identified in response to Interrogatory No. 1, including, but not limited to, all competitive analyses, press releases, financial reports, financial performance analyses, business plans, and similar documents that refer or relate to Agere's projected and actual financial performance.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks



information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

#### **REQUEST FOR PRODUCTION NO. 25**

All documents, including without limitation e-mails and slides, referring or relating to comparisons between any Agere Product and other products of other companies.

#### **RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 26**

All documents, including any Prior Art, that Agere contends are relevant to the scope or meaning of any of the claims of the GE Patents.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 27**

All searches, studies, opinions, evaluations, or infringement investigations made in connection with any domestic or foreign patents, literature, or other published materials, relating in any manner to any alleged invention disclosed, described, or claimed in the patents-in-suit, and all documents referring or relating to such searches, studies, opinions, or evaluations, including but not limited to issues of novelty, patentability, validity, enforceability, or enforceable scope of the patents-in-suit.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 28**

All documents on which Agere may rely in support of any contention that it does not infringe the GE Patents.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 29**

All documents on which Agere may rely in support of a contention that it does not willfully infringe the GE Patents, including any opinions of counsel.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant incorporates herein its General Objections, including, in particular, General Objection No. 8. Plaintiff has not identified any claims allegedly infringed by Defendant's products. Defendant is willing to meet and confer with Plaintiff to ascertain which of Defendant's products allegedly infringe the patents in suit, and which claims of the patents in such allegedly are infringed.

Subject to and without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 30**

All documents, including without limitation e-mails and slides, given to Agere or disseminated by Agere at any presentation or meeting, relating to GE Licensing, Motorola, Inc., the GE Patents and/or the possibility that any Agere Product might infringe the GE Patents, including but not limited to booklets, analyses, claim charts, memoranda, or other documents used or exchanged in connection with such presentation or meeting.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection Nos. 7 and 8 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 31**

All documents, including without limitation e-mails and slides, referring or relating to any communication between Agere and any third party relating to any Agere Product and any evaluation boards relating to those products, including, but not limited to, their structure, design, development, function, operation, manufacture, marketing and sale.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 32**

All documents, including without limitation e-mails and slides, referring or relating to any co-development or co-development agreement between Agere and a third party concerning any Agere Product identified in response to Interrogatory No. 1.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection Nos. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

#### **REQUEST FOR PRODUCTION NO. 33**

To the extent available, English Translations of any foreign language documents produced in response to these Requests For Production.

#### **RESPONSE:**

Defendant objects to this request as duplicative of Plaintiff's other requests. Responsive, non-privileged English language documents, to the extent available, will be produced in response to each of Plaintiff's other requests.

#### **REQUEST FOR PRODUCTION NO. 34**

All keys, codes, explanations, manuals, and other documents necessary to the interpretation or understanding of the financial and technical documents produced in response to these Requests For Production.



**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 35**

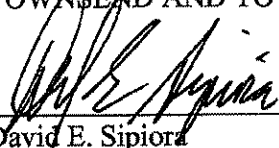
All documents constituting, referring to, or relating to any communications, including confidential communications, between Agere and GE Licensing.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

Dated: September 17, 2007

TOWNSEND AND TOWNSEND AND CREW, LLP

  
\_\_\_\_\_  
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ATTORNEYS FOR AGERE SYSTEMS INC.

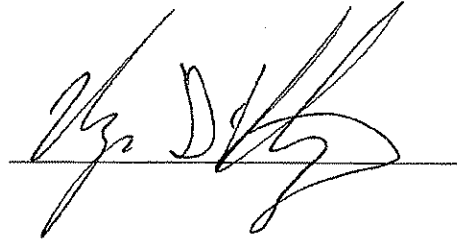
CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September 2007, a true and correct copy of the foregoing **DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO PLAINTIFF CIF LICENSING, LLC'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND TANGIBLE THINGS (NOS. 1-35)** was served by placing the same in the United States mail, postage prepaid and addressed to the following:

Richard L. Horowitz  
Philip A. Rovner  
David E. Moore  
Potter Anderson & Corroon LLP  
Hercules Plaza, 6th Floor  
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Wilmington, DE 19801  
Tel: 302-984-6000  
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rhorowitz@potteranderson.com  
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A handwritten signature in black ink, appearing to read 'Joel M. Freed', is written over a horizontal line.

61131409 v2

# EXHIBIT D

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CIF LICENSING, LLC, d/b/a	)	
GE LICENSING,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 07-170-JJF
v.	)	
	)	
AGERE SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO  
PLAINTIFF CIF LICENSING, LLC'S SECOND SET OF  
REQUESTS FOR PRODUCTION OF  
DOCUMENTS AND TANGIBLE THINGS (NOS. 36-44)**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Agere Systems Inc. ("Defendant") responds to CIF Licensing, LLC's ("Plaintiff") First Set of Requests for Production of Documents and Tangible Things (Nos. 36-44) ("Plaintiff's Requests"), stating as follows:

**GENERAL STATEMENTS AND OBJECTIONS**

1. The following responses are made solely for the purpose of this action and are subject to all objections to competence, authenticity, relevance, materiality, propriety, admissibility, and any and all other objections and grounds which would or could require or permit the exclusion of any statement or document or part thereof from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial.
2. Subject to the specific and general objections listed herein, Defendant will respond to each document request with any existing responsive, non-privileged documents currently in its

possession, custody, or control. By stating in these responses that it will produce documents, Defendant does not represent that any document actually exists, but rather, that it has and will make a diligent search and reasonable inquiry to ascertain whether documents responsive to the requests do, in fact, exist.

3. Defendant will produce its confidential documents and information or documents containing trade secret information only after a Protective Order is entered by the Court in this action or subject to Local Rule 26.2.

4. The following responses are based on information and documents available to Defendant as of the date of service. Discovery is continuing in this case, and accordingly the responses are subject to change. Defendant reserves the right to change, amend, or supplement the responses herein as permitted by the applicable rules. The responses contained herein are made in a good faith effort to comply with the provisions of Rule 34 of the Federal Rules of Civil Procedure, but are in no way deemed to be to the prejudice of Defendant in relation to further discovery, research, and analysis.

5. Defendant objects to Plaintiff's requests to the extent they purport to impose on Defendant obligations that are inconsistent with the Federal Rules of Civil Procedure or local rules.

6. Defendant objects generally to Plaintiff's Requests to the extent they seek documents or information protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Such documents or information shall not be produced in response to the Requests, and any inadvertent production thereof shall not be deemed a waiver of any privilege or protection by the work product doctrine that may attach thereto.

7. Defendant objects to Plaintiff's definition of "Agere Product(s)." The broad scope of term "Agere Product(s)" renders many of Plaintiff's document requests overly broad, unduly burdensome, and/or irrelevant. This defect is exacerbated by Plaintiff's failure, in its pleading and its answers to Defendant's Interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit. Effectively, Plaintiff seeks discovery on every modem ever made used or sold by Defendant or its predecessors in interest. Defendant cannot respond to such discovery requests until Plaintiff provides a more reasonable scope for discovery in this case.

8. Defendant objects to Plaintiff's Requests that seek documents concerning Defendant's contentions or positions related to the alleged infringement (including willful infringement), validity and/or enforceability of the patents in suit. As noted above, Defendant has failed, in both its pleading and its answers to Defendant's interrogatories, to identify any asserted claims of the patents in suit, or to provide any explanation of how any claims of the patents in suit apply either to specific products or to any ITU standards purportedly covered by the patents in suit. Accordingly, Defendant cannot provide responsive documents to any Requests that call for such contentions until Plaintiff has identified the claims and products at issue in this litigation.

9. Defendant objects to any request for production of documents related to sales, marketing, products, accounting, financial information, or manufacturing to the extent that responsive documents are dated prior to March 23, 2001 because these documents are outside the time period for the applicable statute of limitations and thus is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 36**

All documents, including without limitation e-mails and slides, referring or relating to any license or other authorization that Agere purportedly has or had for any Agere Product to practice any of the patents in suit, whether such license or authorization purportedly comes from or through GE Licensing, Motorola, Inc., Lucent Technologies Corp., Altocom, Inc., Broadcom, Inc., or any other entity.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.



**REQUEST FOR PRODUCTION NO. 37**

All documents, including without limitation e-mails and slides, referring, relating to, or supporting Agere's statement made in the July 30, 2007 proposed Scheduling Order and statements made by Agere's counsel during the Scheduling Hearing of August 1, 2007 that Agere purports to have a "license defense."

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 38**

All documents constituting, referring to, or relating to any communications, including confidential communications, between Agere and Altocom, Inc. and Agere and Broadcom, Inc. that bear in any way on Agere's purported license defense.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks

information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 39**

All other documents that bear in any way on Agere's purported license defense, including without limitation e-mails and slides, referring or relating to Agere Products (including without limitation those documents referring or relating to any intellectual property, know-how, technology, source code, components, plans, knowledge or other information, products or services incorporated into or used in the design, manufacture or sale of Agere Products) received from GE Licensing, Motorola, Inc., Lucent Technologies Inc., AltoCom, Inc. or Broadcom Corp.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Products."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 40**

All documents, including without limitation e-mails and slides, constituting, referring to, or relating to any license of patent rights or transfer of license rights related to any Agere Product, including without limitation agreements with or between any of Agere, Lucent Technologies Inc., Atlas Acquisition Corp., LSI Logic Corp., LSI Corp., AltoCom, Inc. and Broadcom Corp.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product,"

Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 41**

All documents, including without limitation e-mails and slides, constituting, referring to, or relating to the formation and corporate structure of Agere, including without limitation all documents constituting, referring to, or relating to the transfer of assets from Lucent Technologies Inc. to Agere, the merger of Agere and Atlas Acquisition Corp. and the ownership of Agere by LSI Logic Corp. or LSI Corp.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 42**

All documents, including without limitation e-mails and slides, constituting, referring to, or relating to assets, licenses and liabilities transferred to or from Lucent Technologies Inc. from or to Agere.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Without waiving its specific objections, or the General Objections set forth above, Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

**REQUEST FOR PRODUCTION NO. 43**

All documents, including without limitation e-mails and slides, referring or relating to a license defense and any proceeding in the United States or in a foreign country, including, but not limited to, litigation (including but not limited to the litigation captioned "In re Townsend Patent Litigation, Townsend Intellectual Property, L.L.C. v. Agere Systems, Inc." before the U.S. District Court for the Northern District of California docket No. 5-02-CV-4833), arbitration or dispute, contested proceeding or charge of infringement (whether formal or informal), pending or threatened, that in any way relates to Agere or Agere Products, components thereof, or products containing same, including, but not limited to, settlement agreements, deposition transcripts, hearing transcripts, pleadings and discovery responses from such proceeding.

**RESPONSE:**

Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to

the discovery of admissible evidence. Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Furthermore, to the extent the information is not privileged, much of the requested information is readily available through more convenient, publicly-accessible sources such as PACER.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

#### **REQUEST FOR PRODUCTION NO. 44**

All documents constituting, referring to, or relating to any standard promulgated by the ITU Telecommunication Standardization Sector (ITU-T) or any other standards organization, including without limitation the V.17, V.29, V.32bis, V.32 terbo, V.FC, V.Fast, V.Fast Class, V.34, H.324, V.34Q, V.34R, V.34 extended rate, V.34bis, V.34 plus, X2, K56 Flex, V.90 and V.92 standards, including without limitation any documents referring or relating to any Agere Product identified in response to Interrogatory No. 1 meeting or complying with such standard(s).

**RESPONSE:**

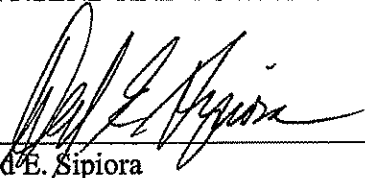
Defendant objects to this request on the grounds that it is vague, overly broad, and unduly burdensome, and seeks documents that are not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Further, Defendant objects to this request because it seeks information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege. Furthermore, much of the requested information is in Plaintiff's possession or readily available through more convenient, publicly-accessible sources.

Defendant also incorporates by reference its General Objections, including, in particular, General Objection No. 7 and Defendant's Response to Interrogatory No. 1. Defendant is willing to meet and confer with Plaintiff to identify a reasonable scope of the term "Agere Product."

Subject to and without waiving its specific objections, or the General Objections set forth above, and once the parties have agreed upon the proper scope of the term "Agere Product," Defendant will produce relevant and non-privileged documents in its possession, to the extent any exist, that are responsive to this request.

Dated: September 17, 2007

TOWNSEND AND TOWNSEND AND CREW, LLP



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**ATTORNEYS FOR AGERE SYSTEMS INC.**



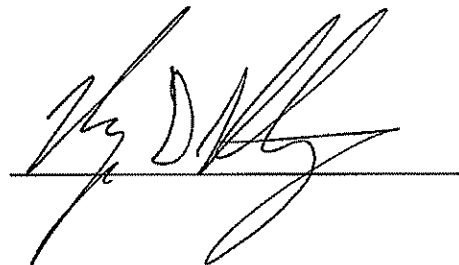
CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September 2007, a true and correct copy of the foregoing **DEFENDANT AGERE SYSTEMS INC.'S RESPONSES TO PLAINTIFF CIF LICENSING, LLC'S SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND TANGIBLE THINGS (NOS. 36-44)** was served by placing the same in the United States mail, postage prepaid and addressed to the following:

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A handwritten signature in black ink, appearing to be 'E. H. Wheeler', written over a horizontal line.

61131416 v1

# EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CIF LICENSING, LLC, d/b/a  
GE LICENSING,

Plaintiff,

V.

AGERE SYSTEMS INC.,

Defendant.

C.A. No. 07-170-JJF

## JURY TRIAL DEMANDED

**PLAINTIFF CIF LICENSING, LLC'S FIRST SET OF INTERROGATORIES TO  
DEFENDANT AGERE SYSTEMS INC. (NOS. 1-30)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff CIF Licensing, LLC, d/b/a GE Licensing ("GE Licensing") hereby directs the following interrogatories to Defendant Agere Systems Inc. ("Agere"). These interrogatories are to be answered fully and separately, in writing, and under oath by an officer or agent of Agere authorized to give answers on its behalf. Answers to these interrogatories must be served at the offices of McDermott Will & Emery LLP, 600 13th Street, N.W., Washington, D.C. 20005-3096, 30 days after service hereof, as prescribed by Rule 33.

## DEFINITIONS

The following definitions shall apply to the document requests that follow:

1. The terms “Agere,” “You” or “Defendant” shall mean Defendant Agere Systems Inc., its parents, subsidiaries, divisions, affiliates, predecessors or successors in interest, any joint venture to which it is a party, or other affiliated entities, and each of its employees, agents, officers,

directors, representatives, consultants, accountants, and attorneys, including any person who served in any such capacity at any time and including, without limitation, LSI Logic Corp.

2. The terms "CIF Licensing, LLC," "GE Licensing" or "Plaintiff" shall refer to CIF Licensing, LLC, its parents, subsidiaries, divisions, affiliates, predecessors or successors in interest, any joint venture to which it is a party, or other affiliated entities, and each of its employees, agents, officers, directors, representatives, consultants, accountants, and attorneys, including any person who served in any such capacity at any time.

3. The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the interrogatory inclusive rather than exclusive.

4. The terms "any" or "each" shall be construed to include and encompass "all."

5. The term "date" means the exact day, month, and year, if ascertainable, or, if not, the best approximation thereof.

6. The terms "document" or "documents" are used in the broadest possible sense and include, without limitation, all originals, copies, drafts, and recordings of any written, typewritten, printed, graphic, electronic, digital or otherwise recorded matter, including forms of information translatable or convertible into a reasonably usable form. "Document" or "documents" include, without limitation, the following items: electronic mail (e-mails); Microsoft PowerPoint slides and/or presentations; Microsoft Excel spreadsheets; Microsoft Word documents; agreements; communications, including intracompany communications; correspondence; letters; memoranda; records; books; summaries or handwritten notes or other records of personal conversations or interviews; diaries; laboratory notebooks; appointment books; manuscripts, either in final or draft form, whether complete or incomplete and whether published or not; grant or project proposals; forecasts; statistical statements; any and all forms of

data; meeting abstracts; slides; graphs; charts; diagrams; maps; blueprints; tables; indices; pictures; audio or visual recordings; tapes; magnetic discs; printed cards; programming instructions; assembly diagrams; schematic diagrams; manuals; films; assay results and reports; charges; accounts; invoices; analytical records; reports, records or summaries of meetings or conferences; reports, records or summaries of consultants; reports, records or summaries of negotiations; brochures, pamphlets; circulars; trade letters; press releases; contracts; stenographic, handwritten or any other notes; projectable images, including transparent overheads or slides; any other document or writing or form of information convertible into a document, including information contained within or accessible by a computer or computer accessory and the underlying documents supporting computer entries.

7. The terms "entity" or "entities" include natural persons, proprietorships, partnerships, firms, private corporations, public corporations, municipal corporations, governments (including foreign national governments, the government of the United States or any state or local government), all departments and agencies thereof, and any governmental agencies of any country, political subdivisions, groups, associations, or organizations.

8. The term "identify," when used with respect to any natural person, means that the following information shall be provided; the person's full name; last known home address; last known business address and telephone number; last known title or occupation; and last known employer.

9. The term "identify," when used with respect to any legal entity, such as a corporation, company, or person other than a natural person, means that the following information shall be provided: the entity's name; the place of incorporation or organization; the principal place of business; and the nature of the business conducted by that legal entity.

10. The terms “GE Patents,” “patents-in-suit,” or “patents-at-issue” shall refer to United States Patent No. 5,048,054 (“the ‘054 Patent”), United States Patent No. 5,428,641 (“the ‘641 Patent”), United States Patent No. 5,446,758 (“the ‘758 Patent”), and United States Patent No. 6,198,776 (the ‘776 Patent”).

11. “Agere Product(s)” shall mean any modem, hardware modem, soft-modem or modem chip set product, component thereof, or product containing same, made or sold by Agere, including, but not limited to, SV92A3, SV92PP, SV92U2, SV92EX, DP3, CFAX17, CFAX34, CV92, CV34, and CV22 and components thereof, and/or products containing the same.

12. A document, thing, or communication “relating to” or “related to” a given subject means all documents and things or communications that directly or indirectly constitute, contain, embody, concern, evidence, show, comprise, reflect, identify, state, refer to, deal with, comment on, respond to, describe, involve, mention, discuss, record, support, negate, or are in any way pertinent to that subject.

13. The use of word “the” shall not be construed as limiting the scope of any interrogatory.

14. The terms “thing” or “things” refer to any tangible object other than a document as defined herein, and includes objects of every kind and nature.

15. Use of the singular is also to be taken to include the plural, and vice-versa.

### **INSTRUCTIONS**

The following instructions apply:

A. If any information is withheld under a claim of privilege, state the nature of the privilege claimed and provide sufficient information to permit a full determination of whether the claim is valid. With regard to the production of documents, when there is no objection to the production of a document other than privilege, each document so withheld should be separately

identified in a privileged document list. The privileged documents list must identify each document separately, specifying for each document at least the following: (1) the date that the document was created; (2) the sender(s); (3) the recipient(s), including copy recipients; (4) the general subject matter of the document; and (5) the portion(s) of the document as to which privilege is claimed (*e.g.*, one sentence, one paragraph, entire document, etc.) The sender(s) and recipient(s) shall be identified by position and entity (corporate or firm, etc.) with which they are employed or associated. If the sender or recipient is an attorney or a foreign patent agent, he or she should be so identified. In the case of a foreign patent agent, there should be a statement of whether the laws of the agent's country grant privileged status to an agent's communication. The type of privilege claimed must also be stated, together with certification that all elements of the claimed privilege have been met and not waived with respect to each document.

B. If Agere objects to any subpart of a request for information or objects to providing certain information requested, state Agere's objection(s) and answer the unobjectionable subpart(s) of the request for information and/or supply the unobjectionable information requested.

C. If any of the following requests for information cannot be responded to in full after exercising reasonable diligence to secure the information, please so state, supply the information for those portions Agere is able to answer, and supply whatever information Agere has concerning the portion which cannot be answered in full. If any answers are qualified in any particular respect, set forth the details of such qualification.

D. To the extent that requests for information involve the identification of documents, all responsive documents, wherever located, in the possession, custody, or control of Agere, including any documents contained in any personal files of present or past employees of

Agere, are included. Copies of documents that are not identical duplicates of the original document because of markings, handwritten notations or other differences should be considered separate documents. English translations or partial translations of foreign language documents should also be considered separate documents.

E. Discovery requests are continuing in nature and, pursuant to the Federal Rules of Civil Procedure, Agere is under a duty to seasonably amend a prior response to an interrogatory or request for production if Agere learns that the response is in some material respect incomplete or incorrect.

### **INTERROGATORIES**

#### **INTERROGATORY NO. 1**

Identify each and every Agere Product ever manufactured, used, distributed, sold, or offered for sale by or on behalf of Agere by model name, trade name, marketing name, internal name, type, description, design number, catalog number, and all other names and/or designations used by Agere, and the date it was first sold, offered for sale, or marketed.

#### **INTERROGATORY NO. 2**

Identify each entity that is or has been involved in any way in the design, development, manufacturing, assembly, marketing, sales and/or distribution of each Agere Product identified in response to Interrogatory No. 1, including the name and location of such entity, its relationship with Agere, identification of any licenses or other agreements with such entity, as well as a narrative description of each such involvement (including the location of any such involvement) of each such entity.



**INTERROGATORY NO. 3**

State precisely when Agere commenced any activities, projects or programs, whether formal or informal, directed to the design and development of each Agere Product identified in response to Interrogatory No. 1, including a description of the activities, projects and/or programs (including their objectives and results), and, for each such activity, identify the person(s) knowledgeable about such activities, the person(s) involved in such activities, and state precisely where such activities were undertaken.

**INTERROGATORY NO. 4**

Identify the three persons most knowledgeable about the structure, design, development, function, and operation of each Agere Product identified in response to Interrogatory No. 1.

**INTERROGATORY NO. 5**

Identify the three persons most knowledgeable about the manufacture and/or assembly of each Agere Product identified in response to Interrogatory No. 1.

**INTERROGATORY NO. 6**

Identify the three persons most knowledgeable about the marketing, sale and distribution of each Agere Product identified in response to Interrogatory No. 1.

**INTERROGATORY NO. 7**

Describe any activities of Agere with respect to the design, development, fabrication, manufacture, assembly and/or testing of Agere Products, components thereof, or products containing same.

**INTERROGATORY NO. 8**

Describe any activities of Agere with respect to the marketing, sales and/or distribution of Agere Products, components thereof, or products containing same.

**INTERROGATORY NO. 9**

For each Agere Product, component thereof, or product containing same identified in Your answer to Interrogatory No. 1, identify the quantity produced, total sales volume, unit prices, purchaser, and the revenues that Agere has received, expects to receive and/or has projected to receive from the sale, lease, license, sublicense or use of any Agere Product, component thereof, or product containing same.

**INTERROGATORY NO. 10**

Describe any testing or analysis done by Agere or any other entity to determine whether, or that may have revealed whether, any Agere Product identified in response to Interrogatory No. 1 infringes any of the GE Patents, and identify all persons who performed, directed, or observed such tests and/or analyses, and provide the dates of any such tests and/or analyses, and identify any documents, such as reports, showing their results.

**INTERROGATORY NO. 11**

Describe any plans or attempts by Agere to redesign any Agere Product identified in response to Interrogatory No. 1, and identify the person(s) knowledgeable of and the person(s) involved in any such plans or attempts, and identify all documents that refer to or relate to any such plans or attempts.

**INTERROGATORY NO. 12**

State whether Agere contends that it does not infringe, either literally or under the doctrine of equivalents, any claim of the GE Patents and, if so, for each such claim identify all legal and factual bases for each such contention, and how the identified documents, things, facts or knowledge support this assertion, and identify all people with knowledge thereof and all documents that support or refute Your contention.

**INTERROGATORY NO. 13**

If Agere contends that it has not willfully infringed the GE Patents, describe each fact that supports or refutes that contention and, with respect to each such fact, identify all people with knowledge thereof, and each document relating to that fact, including any opinions of counsel upon which Agere may rely.

**INTERROGATORY NO. 14**

Describe any statements, oral or written, by Agere concerning or relating to any GE Patent, and identify all documents containing or evidencing such statements.

**INTERROGATORY NO. 15**

Separately and with respect to each of the GE Patents, describe the circumstances under which Agere first became aware of the patent and identify each past and present director, officer, employee, representative or agent of Agere, including Agere's in-house and outside counsel, involved in such circumstances.

**INTERROGATORY NO. 16**

State whether Agere has ever taken any position regarding the validity, enforceability, or infringement by Agere of any of the GE Patents and, if so, describe (a) the position and the circumstances in which that position was taken, (b) the specific bases for each such position, (c) the identity of all documents or prior art relating to those bases, and (d) how those documents and that prior art support such position.

**INTERROGATORY NO. 17**

State whether Agere has ever been informed or concluded that any of the GE Patents is invalid, unenforceable, or not infringed by Agere, and, if so, identify the person(s) and/or entity that so informed Agere, or so concluded, the information communicated to Agere and the

circumstances under which Agere was so informed, or so concluded, identify all documents or prior art relating to what Agere was informed, or so concluded, and explain the relationship of those documents and such prior art to the information Agere was provided or considered.

**INTERROGATORY NO. 18**

Identify all opinions, advice, analyses or communications, whether written or oral, relating to the enforceability, validity or infringement of any of the GE Patents, and identify the person(s) who provided the opinion, advice, analysis or communication, the person(s) to whom the opinion, advice, analysis or communication was provided, the date such opinion, advice, analysis or communication was provided and describe the substance of the opinion, advice, analysis or communication which was provided and identify all documents relating to the opinion, advice, analysis or communication provided.

**INTERROGATORY NO. 19**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 101, and, if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 101 upon which this assertion is based and the documents, things, facts or knowledge upon which each such assertion is based, and explain in detail how the identified documents, things, facts or knowledge support this assertion.

**INTERROGATORY NO. 20**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 102, and, if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 102 upon which this assertion is based and the documents, things, facts or knowledge upon which each such assertion is based, and explain in detail how the identified documents, things, facts or knowledge support this assertion.

**INTERROGATORY NO. 21**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to 35 U.S.C. § 103, and if so, with respect to each such claim identify all documents, things, facts or knowledge upon which Agere bases this assertion and explain in detail how the identified documents, things, facts or knowledge support Agere's assertion, including identification of how the identified documents, things, facts or knowledge disclose specific claim elements, and identify what suggestion, motivation, or knowledge in the relevant art supports Agere's application of 35 U.S.C. § 103.

**INTERROGATORY NO. 22**

State whether Agere contends that any claim of the GE Patents is invalid pursuant to any provision of 35 U.S.C. § 112, and if so, with respect to each such claim identify the specific provision of 35 U.S.C. § 112 of the Patent Act upon which this assertion is based and the documents, things, facts or knowledge upon which Agere bases this assertion, and explain in detail how 35 U.S.C. § 112 is not satisfied by the claim, and how the identified documents, things, facts or knowledge support this assertion.

**INTERROGATORY NO. 23**

State whether Agere contends that it does not infringe, either literally or under the doctrine of equivalents, any claim of the GE Patents and, if so, for each such claim identify all legal and factual bases for each such contention, and how the identified documents, things, facts or knowledge support this assertion.

**INTERROGATORY NO. 24**

Identify in detail all facts that support Agere's second affirmative defense of "Legal Justification" and identify any documents that Agere claims support that defense.

**INTERROGATORY NO. 25**

Identify in detail all facts that support Agere's fourth affirmative defense of "Laches/Waiver/Estoppel" and identify any documents that Agere claims support that defense.

**INTERROGATORY NO. 26**

Identify in detail all facts that support Agere's sixth affirmative defense of "Prosecution History Estoppel" and identify any documents that Agere claims support that defense.

**INTERROGATORY NO. 27**

Identify in detail all facts that support Agere's seventh affirmative defense and ninth counterclaim of "Unenforceability" and identify any documents that Agere claims support that defense and counterclaim.

**INTERROGATORY NO. 28**

Identify all persons who Agere expects will offer testimony on its behalf at the trial in this case, including, without limitation, any expert witness and state the substance of the facts or opinions to which each person is expected to testify.

**INTERROGATORY NO. 29**

Describe all Agere's policies and practices with respect to the filing, storage, retention and destruction of documents from August 2000 to the present, and person(s) most knowledgeable regarding each policy and to the extent it is followed.

**INTERROGATORY NO. 30**

Identify each legal action, including but not limited to any action before the U.S. Patent and Trademark Office, the International Trade Commission, and any federal, state or foreign court, concerning any of the Agere Products. For each such action, identify the case number, the court and presiding judge, the parties to the action, and all pleadings and other documents filed in

the action and all depositions conducted, including the name of the deponent and date of the deposition.

POTTER ANDERSON & CORROON LLP

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Dated: August 17, 2007  
313298

By: 

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*Attorneys for Plaintiff*  
*CIF Licensing, LLC, d/b/a*  
*GE Licensing*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on August 17, 2007, true and correct copies of the within document were served on the following counsel of record at the addresses and in the manner indicated:

**BY HAND DELIVERY AND E-MAIL**

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# EXHIBIT F

TOWNSEND  
and  
TOWNSEND  
and  
CREW  
LLP

Denver

1200 Seventeenth Street  
Suite 2700  
Denver, Colorado 80202  
Tel 303.571.4000  
Fax 303.571.4321

ceking@townsend.com

October 4, 2007

VIA EMAIL AND U.S. MAIL

Michael W. Connelly  
McDermott Will & Emery LLP  
600 13th Street, N.W.  
Washington, D.C. 20005-3096  
Email: mconnelly@mwe.com

Re: *CIF Licensing, LLC d/b/a GE Licensing ("GE") v. Agere Systems, Inc. ("Agere")*

Dear Mike:

We are in receipt of GE's responses to Agere's First Set of Interrogatories and First Set of Requests for Production. With respect to the former, a number of the responses – including responses nos. 1-4 and 12 – contain an objection to contention-style interrogatories "at this early stage of the litigation" and state that GE "will respond on a mutually agreed-upon date for all contention interrogatories." We do not necessarily agree that Agere's contention interrogatories are improper at this stage of the litigation. Nevertheless, in the spirit of compromise and to facilitate the efficient progress of discovery, we are willing to agree to a schedule for more complete responses to these and the other interrogatories to which GE did not provide a substantive response, as outlined below.

As the patentee and the plaintiff in this action, GE bears the burden of identifying the asserted claims, its proposed construction of the terms in those claims, the accused products, and its mapping of the construed claims to the accused products before Agere must state its non-infringement, invalidity, and unenforceability positions. Indeed, Agere cannot do so until its knows which claims are in issue and how GE construes those claims. Consequently, we propose that GE Licensing provide complete responses to Agere's interrogatories, including specifically those listed above, by November 1, 2007. Assuming the GE provides those responses, we further propose that Agere respond to the contention-style interrogatories in GE's First and Second Sets of Interrogatories – including specifically non-infringement, invalidity, and unenforceability contentions – by December 20, 2007.

With respect to GE's responses to Agere's First Set of Requests for Production, most of the responses state that GE "will produce responsive, relevant, and non-privileged documents in its possession, if any." Please advise when, where, and in what format (paper, PDF, etc.) GE Licensing proposes to produce the documents. We will review your proposal and let you know whether we find it agreeable, and when and in what format we propose that Agere produce documents in response to GE's requests. Finally, please provide comments on the most recent

TOWNSEND  
*and*  
TOWNSEND  
*and*  
CREW  
LLP

Michael W. Connelly  
October 4, 2007  
Page 2

draft of the stipulated protective order so we may file it with the Court in anticipation of the production of documents by the parties and third parties.

We are available to confer further with you on these issues by phone. Please let us know if you would like to do so, and if so, please propose a date and time. Thank you for your anticipated cooperation.

Sincerely,

  
Chad E. King

CEK/lbb

61169676 v1

# EXHIBIT G



"King, Chad E."  
<ceking@townsend.com>  
10/10/2007 01:49 PM

To "Michael W Connelly" <mconnelly@mwe.com>  
cc <provner@potteranderson.com>, <jshaw@ycst.com>, <CStover@ycst.com>, "Saffer, Ian L." <ilsaffer@townsend.com>, "Sipiora, David E." bcc

Subject Outstanding discovery issues

History:

✉ This message has been replied to.

Mike,

I write to follow up on the letter I sent to you on October 4, 2007. In that letter, we proposed a schedule for serving contention interrogatory responses and requested that you propose a date and other details for the production of documents responsive to our document requests. In that letter, I also asked for your comments on the latest draft of the protective order, which we sent to you on September 20, 2007.

I do not believe we have received any response from you to our letter, and we therefore would like to meet and confer with you by phone regarding the issues raised in that letter. Please provide me with a list of times you are available today or tomorrow to discuss these issues.

Thanks.

Chad

---

Chad King  
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Denver, CO 80202  
Phone: 303.571.4000 | FAX: 303.571.4321  
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**Offices in:**

**Denver | Palo Alto | San Diego | San Francisco | Seattle | Tokyo | Walnut Creek**

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# EXHIBIT H

1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BRIDGESTONE SPORTS CO.,     )  
LTD and BRIDGESTONE GOLF,   )  
INC.,                         )  
                               )  
                  Plaintiffs,   )  
                                  ) C.A. No. 05-132 JJF  
v.                                )  
                                  )  
ACUSHNET COMPANY,             )  
                                  )  
                  Defendant.   )

Friday, January 13, 2006  
3:37 p.m.  
Courtroom 4B

844 King Street  
Wilmington, Delaware

BEFORE: THE HONORABLE JOSEPH J. FARNAN, JR.  
United States District Court Judge

APPEARANCES:

MORRIS, NICHOLS, ARSHT & TUNNELL  
BY: JACK BLUMENFELD, ESQ.

-and-

SUGHRUE MION, PLLC  
BY: ROBERT M. MASTERS, ESQ.  
BY: STEVEN M. GRUSKIN, ESQ.  
BY: RAJA M. SALIBA, ESQ.

Counsel for the Plaintiffs

APPEARANCES CONTINUED:

POTTER, ANDERSON & CORROON, LLP  
BY: DAVID E. MOORE, ESQ.

-and-

HOWREY, LLP  
BY: MATTHEW MOORE, ESQ.  
BY: BRIAN S. SEAL, ESQ.

Counsel for Defendant



1 the specific combination of prior art, and why it  
2 would have been obvious to make such  
3 combinations.

4 That's Number 1. And that cites the  
5 Gruskin letter.

6 There are a number of responsive  
7 facts. And then the key word when a judge reads  
8 these kind of letters, however. See, that's a  
9 bad thing to do, because it sets me up to go back  
10 and look at the first request, the prior art  
11 combinations.

12 However, which Bridgestone must  
13 produce including facts supporting any claim or  
14 commercial success, long-felt need, et cetera.  
15 Acushnet is entitled to the production of  
16 documents. I agree, and the application will be  
17 granted.

18 The next issue, production of  
19 development data. That's going to be granted.

20 The production of development data  
21 for Bridgestone's patents and the accused  
22 Bridgestone golf balls including e-mail and  
23 documents from the personal files of the named  
24 inventors.

1                   Now, that was ordered before. And,  
2     I guess, after the 30(b)6, there's some question  
3     that it wasn't -- the information wasn't properly  
4     polled or something.

5                   So I'm going to grant that request  
6     and order it be produced in ten days. If there's  
7     no production or if there's a belief that the  
8     production is inadequate, I'll entertain a search  
9     proposal by an independent contractor, and it can  
10    include interviewing of personnel.

11                  I'll entertain any idea that you  
12    think will expose the failure to comply with my  
13    order. If there's one document after that search  
14    proposal is ordered that's found, I'll entertain  
15    a second application for serious sanctions.

16                  So next is production of data on the  
17    Titleist HP Eclipse and Tour Distance golf balls.  
18    That's granted and should be produced within 20  
19    days.

20                  As to the last request, detailed  
21    infringement contentions, infringement in the  
22    request itself, it cites the February date. So  
23    I'm not going to entertain any application on  
24    that, because I'm going to -- I've concluded that

1       that's premature.

2                       But certainly it's not an  
3       unreasonable request. I guess you're just going  
4       to have to wait.

5                       You're getting pushed up against  
6       dates, which seems to be part of your  
7       interaction. Okay.

8                       That resolves the two letters and  
9       the motions that were filed. And I'll now  
10      entertain questions.

11                      MR. MOORE: Your Honor, one question  
12      about the representative claims motion that was  
13      denied. You said that we could file again on  
14      May 1st, or --

15                      THE COURT: Yes.

16                      MR. MOORE: -- do you want the  
17      briefing done by May 1st for representative  
18      claims by around May 1st?

19                      THE COURT: Here's what I want you  
20      to do.

21                      MR. MOORE: Okay.

22                      THE COURT: I want you -- because  
23      we're going to get ready for the Markman hearing.

24                      MR. MOORE: Yes.

1 THE COURT: So if the Markman  
2 hearing is going to be about claim construction,  
3 we ought to know what claims are in the case, the  
4 representative claims. So I have to know what  
5 the representative claims are by May 1, so that  
6 you can prepare for the July Markman.

7 MR. MOORE: Okay. So we agree  
8 representative claims will be picked by May 1?

9 THE COURT: Yes.

10 MR. MOORE: Okay. Thank you.

11 THE COURT: Is that helpful?

12 MR. MOORE: Will that is the date to  
13 bring the motion, or we could bring it earlier or  
14 before representative claims on that date. Do  
15 you have an idea of what number of claims you're  
16 thinking about?

17 THE COURT: Two.

18 MR. MOORE: Perfect.

19 THE COURT: But you can expand on  
20 that if you want. Now, I have no idea.

21 I've read what you said and I mean,  
22 I understand there's a little different view  
23 about whether the case is complex or how many  
24 claims you should have in.

1 I can tell you that I've listened to  
2 a couple of Federal Circuit judges who agree that  
3 district judges have the authority to do that.  
4 And they've talked about, like, taking hundreds  
5 of claims and reducing them to, like, 15 to 20.

6 And then they've debated. I've  
7 heard them go back and forth.

8 I think you have to make a proposal  
9 and then I have to -- I can order a proposal be  
10 submitted. Then I can listen to each side, and  
11 then I'll decide what I think will work in this  
12 case.

13 And then I think it's an abuse of  
14 discretion standard. So I'm -- what I'm trying  
15 to tell you is I'm open.

16 MR. MOORE: Okay. Great.

17 Thank you.

18 THE COURT: Does that help?

19 MR. MOORE: Yes.

20 MR. BLUMENFELD: Your Honor, we had  
21 one question. On the Bridgestone letter, the  
22 third item, the golf ball components, we just  
23 weren't exactly clear as to what you ordered  
24 Acushnet to do.

1                   THE COURT: Okay. Let's go back to  
2 the Bridgestone letter. And that's -- we're  
3 talking about testing.

4                   MR. BLUMENFELD: Right.

5                   THE COURT: And I'm not going to  
6 dictate how you're going to -- because I don't  
7 know enough, I'm not going to dictate a specific  
8 method to accomplish the testing.

9                   That's essentially what I'm saying.  
10 And I gave an example that I understand what the  
11 problem is.

12                   That even if you took two balls, and  
13 tested them simultaneously with your own testers,  
14 you know, you could even get a different result,  
15 or that's maybe the way to resolve it.

16                   What I think is that the balls have  
17 to be tested, though, by both sides, if both  
18 sides want to test them in a compressed time  
19 period under the same conditions. How you agree  
20 to do that is your business.

21                   If you can't agree, I've given you  
22 what I'm thinking. If you can't agree, then  
23 you'll each have to submit a specific proposal,  
24 and I'll choose.

1                   MR. MOORE: Just one more  
2 clarification, while we are all together here.

3                   THE COURT: Sure.

4                   MR. MOORE: The detailed  
5 infringement contentions to date, we gave it  
6 months ago. We gave our actual measurements on  
7 balls, and we expected that you'd order the  
8 detailed contentions. But you said they would be  
9 due the last day of supplements, February 28th.

10                  Are we going to get their actual  
11 measurements, because right now the one thing  
12 we're, frankly, frustrated with, I don't know  
13 anything more about their infringement case then  
14 I did the day they filed the complaint.

15                  We're seven months into discovery,  
16 and I have learned nothing about their  
17 infringement case. And two things will be  
18 critical when we're getting ready for Markman.

19                  One, we need to know which are  
20 literal, which are DOE, and because our  
21 measurements are showing us we don't infringe.

22                  The other factor that's going to be  
23 key for claim construction in this case is how  
24 they perform the test, because I've got a feeling

1       they're doing a test that Japanese companies do.

2       We're doing a test that U.S. companies do.

3                     And the testing methods are  
4       different. Can we get in our detailed  
5       infringement contentions also how not just the  
6       data, the actual measurements, but how the tests  
7       are performed, because that's going to be a key  
8       issue for Markman when it's talking about  
9       hardness, how do you measure that hardness.

10                    The company's -- it seems based on  
11       what our data is showing us where we don't  
12       infringe that how the measurements were formed is  
13       going to be critical for claim construction  
14       issues.

15                    THE COURT: Well, remember when I  
16       gave my brief statement in opening here?

17                    MR. MOORE: Yeah.

18                    THE COURT: And I referenced the  
19       February date. I think I did.

20                    MR. MOORE: Yes.

21                    THE COURT: Didn't I? Okay.

22                    All this for me is not timely, but I  
23       do expect that the infringement contentions will  
24       be complete by that February date. So you should



1 have complete contentions by that date.

2 If you don't, then you are going to  
3 have to come back to me.

4 MR. MOORE: Okay.

5 THE COURT: Does that answer your  
6 question?

7 MR. MOORE: Yes.

8 THE COURT: February is the date.

9 In other words, I only have so many decisions in  
10 me a month.

11 This is, like, January 13th. I  
12 don't want to start using my February allotment  
13 in January.

14 MR. MOORE: That's fine.

15 THE COURT: So I'm holding off. But  
16 I'll hear all that if they don't comply. But  
17 they understand they have to give you what it is  
18 they contend by that date.

19 MR. MOORE: Okay.

20 THE COURT: Don't you?

21 MR. MASTERS: Yes, Your Honor. We  
22 do believe we have to give the final contention  
23 at the end of February.

24 But we have given them detailed

1 MR. MOORE: Thank you.

2 THE CLERK: All rise.

3 (Court was recessed at 4:10 p.m.)

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1 State of Delaware )  
2 New Castle County )

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5 CERTIFICATE OF REPORTER

6

7 I, Heather M. Triozzi, Registered  
8 Professional Reporter, Certified Shorthand  
9 Reporter, and Notary Public, do hereby certify  
10 that the foregoing record, Pages 1 to 41  
11 inclusive, is a true and accurate transcript of  
12 my stenographic notes taken on January 13, 2006,  
13 in the above-captioned matter.

14

15 IN WITNESS WHEREOF, I have hereunto  
16 set my hand and seal this 16th day of January,  
17 2006, at Wilmington.

18

19

20

21 Heather M. Triozzi, RPR, CSR

22

23

24